Regd. No. M.—1175.

226

The Mysore Gazette

Vol. 75.] PUBLISHED BY AUTHORITY. [No. 47

BANGALORE, THURSDAY, DECEMBER 12, 1940.

PART IV.

Legislative Measures and Rules thereunder.

NOTIFICATIONS.

No. G. 5080 —*P. H.* 136-39-8, *dated Bangalore, the* 10*th December* 1940.

Under section 20 E. of the Mysore Prevention of Adulteration Act, IX of 1921 as amended from time to time, the Government of His Highness the Maharaja of Mysore propose to issue the following amendment to rule (21) (b) (1) of the rules issued in Government Notification No. G. 798-P. H. 136-39-3, dated 29th July 1940, for Coffee. Any objections or suggestions to the proposed amendment, if made to the undersigned within a month from the date of this notification will be duly considered.

By Order,

C. E. NORONHA,

Secretary to Government,

Development Department.

Amendment.—Section (21) (b) (i)

"A proportion of complete extractive matter in boiling water which is not more than 30 per cent or not less than 25 per cent."

No. G. 5082—*P. H.* 136-39-9, *dated Bangalore, the* 10*th December* 1940.

ERRATUM.

For the figure "41·0—4·0" appearing under the heading "Refractive index at 40°C against "mixed ghee" in rule 19 of the rules issued in Government Notification No. G. 798—P. H. 136-39-3, dated 29th July 1940, *read* "41·0—44·0."

By Order,

C. E. NORONHA,

Secretary to Government,
Development Department.

No. 3059—*L. C., Bangalore, dated* 5*th December* 1940.

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Contempt of Courts (Amendment) Bill is published for general information with the statement of objects and reasons.

By Order,

H. V. NARAYANA RAO,

Secretary,
Mysore Legislative Council.

The Contempt of Courts (Amendment) Bill.

WHEREAS it is expedient to amend the Contempt of Courts Act, 1930:—

It is hereby enacted as follows:—

1. (1) This Act may be called the Contempt of Courts (Amendment) Act, 194 . Short title and commencement.

(2) It shall come into force at once.

2. In section 2 of the Contempt of Courts Act, 1930, the words "in respect of any pending judicial proceedings, civil or criminal" occurring at the end and the Explanation to that section shall be omitted. Amendment of section 2, Act XI of 1930.

STATEMENT OF OBJECTS AND REASONS.

The Contempt of Courts Act, 1930, was modelled largely on the corresponding enactment of British India. Departing from that enactment, however, it provided that acts of contempt committed in respect of pending judicial proceedings only shall be punishable.

It is considered desirable to remove this limitation and bring the Act into line with the provision of law in British India on the subject. The effect of the proposed amendment will be that any act intended to bring into contempt or lower the authority of a Judge or a Court may be dealt with as contempt of court.

No. 3068—*L. C., Bangalore, dated 6th December* 1940.

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Mysore City Municipalities (Amendment) Bill is published for general information with the statement of objects and reasons.

By Order,

H. V. NARAYANA RAO,

Secretary,

Mysore Legislative Council.

The Mysore City Municipalities (Amendment) Bill.

WHEREAS it is expedient further to amend the Mysore City Municipalities Act, 1933.

It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Mysore City Municipalities (Amendment) Act, 194 .

(2) It shall come into force at once.

Addition of new section 102-A in Act VII of 1933.

2. After section 102 of the Mysore City Municipalities Act, 1933, the following section shall be added as section 102-A thereof, namely :—

Penalty for non-payment of tax.

"102-A. In the event of non-payment of any tax imposed under section 64 within fifteen days from the date of service of notice of demand under sub-section (3) of section 95, and without prejudice to the other provisions of this Chapter, the person failing to pay such tax shall, on conviction before a magistrate, be liable to a fine not exceeding twice the amount of tax found to be due."

STATEMENT OF OBJECTS AND REASONS.

The present procedure for the recovery of assessed taxes in the City Municipalities is laid down in Chapter VIII of the City Municipalities Act, 1933. It has been brought to the notice of Government that the existing provisions of law are inadequate to enable the City Municipal Councils to collect the taxes speedily and to the fullest extent. Both the Municipal Commissioner, Bangalore City and the President, Mysore City Municipal Council, have stated that it is necessary to insert a provision in the Act empowering the Municipal Councils to collect the assessed taxes from defaulters by recourse to prosecution.

There is a provision of this kind in the Municipal Laws of the Civil and Military Station, Bangalore.

It is accordingly proposed to amend the Mysore City Municipalities Act, 1933.

No. L. C.—3070, *dated Bangalore, the 6th December* 1940.

Under Rule 8 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying

Mysore Election Offences and Inquiries Bill is published for general information with the statement of objects and reasons.

By Order,

H. V. NARAYANA RAO,
Secretary to Government,
Mysore Legislative Council.

THE MYSORE ELECTIONS OFFENCES AND INQUIRIES BILL.

Statement of Objects and Reasons.

The recent enactment of the Government of Mysore Act, 1940, has resulted in a considerable widening of the franchise. The franchise for the District Boards in the State, which is the same as for the Representative Assembly, has also been correspondingly widened.

As elections will therefore play an important part in the new public life of Mysore, it is considered desirable that the public conscience should be markedly drawn to the danger of corrupt practices in relation to the franchise, whether that franchise relates to legislative or other bodies. It is of the greatest importance, in order to safeguard the free and unhampered exercise of the vote and to secure the successful working of the system of election, that the principle of the purity of the franchise should be insisted on in the criminal law of the country.

The Joint Parliamentary Committee appointed to report on the Government of India (Amendment) Bill, 1919, recommended the enactment of such a measure. They said: "The Committee are firmly convinced that a complete and stringent Corrupt Practices Act should be brought into operation before the first election to the Legislative Councils. There is no such Act at present in existence in India and the Committee are convinced that it will not be less required in India than it is in other countries." The Indian Elections Offences and Inquiries Act, 1920, was accordingly passed into law in September 1920.

The present Bill is modelled on the British Indian measure and it is made up of two parts. The first part

makes certain amendments to the Indian Penal Code, as in force in Mysore, and the Criminal Procedure Code. This part applies not only to elections to the legislative bodies constituted under the Government of Mysore Act, 1940, but to elections to all public bodies generally. It penalises the five new offences created by this Bill, namely, bribery, undue influence, personation, the publication of false statement and the failure to keep election accounts.

Part II applies only to elections to legislative bodies constituted under the Government of Mysore Act, provision being made for the conduct of inquiries in regard to disputed elections to them. The Commissioner appointed to hold such inquiries will have the powers of a Court under the Code of Civil Procedure, 1911, when trying a suit. The provisions of the Indian Evidence Act, 1872, as in force in Mysore will apply to such inquiries. In addition to certain other incidental provisions, this Part also enacts that a person convicted under Chapter IX-A of the Indian Penal Code, as in force in Mysore, will be disqualified from certain appointments and offices. Government are, however, given the power to remove such disqualifications in any particular case. Provision is also made for the maintenance of secrecy of voting.

The Mysore Elections Offences and Inquiries Bill.

[*A Bill to provide for the punishment of malpractices in connection with elections, and to make further provisions for the conduct of inquiries in regard to disputed elections to the Chambers constituted under the Government of Mysore Act, 1940.*]

WHEREAS it is expedient to provide for the punishment of malpractices in connection with elections, and to make further provision for the conduct of inquiries in regard to disputed elections to the Chambers constituted under the Government of Mysore Act, 1940;

It is hereby enacted as follows :—

Preliminary.

hort title ad extent.

1. (1) This Act may be called the Mysore Election Offences and Inquiries Act, 194 .

(2) It extends to the whole of Mysore.

PART I.

OF OFFENCES RELATING TO ELECTIONS.

Amendments to the Indian Penal Code as applied to Mysore.

2. (1) In Section 21 of the Indian Penal Code, as in force in Mysore, after the twelfth entry, the following shall be inserted, namely,—

"*Thirteenth.*—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;"

and after *Explanation* 2, the following shall be added, namely,—

"*Explanation* 3.—The word 'election' denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which he is by, or under, any law prescribed as by election."

(2) After Chapter IX of the same Code the following Chapter shall be inserted, namely,—

CHAPTER IX-A.

"OF OFFENCES RELATING TO ELECTIONS.

171-A. For the purposes of this Chapter—

"Candidate" and "electoral right" defined.

(*a*) "Candidate" means a person who has stood or claims to have stood as a candidate at any election and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate thereat:

Provided that he has subsequently stood as a candidate at such election.

(*b*) "Electoral right" means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

171-B. (1) Whoever—

Bribery.

(i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right, commits the offence of bribery :

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification, shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

Undue influence at elections.

171-C. (1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

(2) Without prejudice to the generality of the provisions of sub-section (1), whoever—

(*a*) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or

(*b*) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

(3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

Personation at election.

171-D. Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election

for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election.

Punishment for bribery.

171-E. Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or both:

Provided that bribery by treating shall be punished by fine only.

Explanation.—"Treating" means that form of bribery where the gratification consists in food, drink, entertainment or provision.

Punishment for undue influence or personation at an election.

171-F. Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

False statement in connection with an election.

171-G. Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

Illegal payments in connection with an election.

171-H. Whoever without the general or special authority in writing of a candidate, incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees:

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

Failure to keep election accounts.

171-I. Whoever, being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts, shall be punished with fine which may extend to five hundred rupees."

Amendment of the Code of Criminal Procedure.

3. (1) In Section 196 of the Code of Criminal Procedure, 1904, after the words, "Chapter VI" the words "or IX-A" shall be inserted.

(2) In Schedule II to the same Code after the entries relating to Chapter IX of the Indian Penal Code, as in force in Mysore, the following shall be added, namely :—

CHAPTER IX-A.—OFFENCES RELATING TO ELECTIONS.

171-E	Bribery ...	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment of either description for one year, or fine, or both or if treating only, fine only.	District Magistrate or Magistrate of the First Class.
171-F	Undue influence and personation at an election.					Imprisonment of either description for one year, or fine or both.	
171-G	False statement in connection with an election.					Fine ...	
171-H	Illegal payments in connection with elections.					Fine of 500 rupees ...	
171-I	Failure to keep election accounts.					Do ...	

PART II.

ELECTION INQUIRIES AND OTHER MATTERS.

Definitions.

4. In this Part, unless there is anything repugnant in the subject or context,—

(*a*) "costs" means all costs, charges and expenses of, or incidental to, an enquiry;

(*b*) "election" means an election to either the Representative Assembly or the Legislative Council constituted under the Government of Mysore Act, 1940;

(*c*) "inquiry" means an inquiry in respect of an election by a commissioner appointed for that purpose by the Government;

(*d*) "pleader" means any person entitled to appear and plead for another in a Civil Court, and includes an advocate of the High Court.

Powers of Commissioner.

5. A Commissioner appointed to hold an inquiry shall have the powers which are vested in a Court under the Civil Procedure Code, 1911, when trying a suit, in respect of the following matters :—

(*a*) discovery and inspection,

(*b*) enforcing the attendance of witnesses, and requiring the deposit of their expenses,

(*c*) compelling the production of documents,

(*d*) examining witnesses on oath,

(*e*) granting adjournments,

(*f*) reception of evidence taken on affidavit, and

(*g*) issuing commissions for the examination of witnesses,

and may summon and examine *suo moto* any person whose evidence appears to him to be material; and shall be deemed to be a Civil Court within the meaning of sections, 480 and 482 of the Code of Criminal Procedure, 1904.

Explanation.—For the purposes of enforcing the attendance of witnesses, the local limits of the Commissioner's jurisdiction shall be the whole of Mysore.

Application of Act I of 1872 to enquiries.

6. The provisions of the Indian Evidence Act, 1872, as in force in Mysore, shall, subject to the provisions of this Act, be deemed to apply in all respects to an inquiry.

Documentary evidence.

7. Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence on the ground that it is not duly stamped or registered.

Obligation of witness to answer. Certificate of indemnity.

8. No witness shall be excused from answering any question as to any matter relevant to a matter in issue in an inquiry upon the ground that the answer to such question will criminate or may tend, directly or indirectly, to criminate him; or that it will expose or tend, directly or indirectly, to expose him to a penalty or forfeiture of any kind:

Provided that—

(1) no person who has voted at an election shall be required to state for whom he has voted; and

(2) a witness who, in the opinion of the Commissioner has answered truly all questions which he has been required by the Commissioner to answer shall be entitled to receive a certificate of indemnity, and such certificate may be pleaded by such person in any court and shall be deemed to be a full and complete defence to or upon any charge under Chapter IX-A of the Indian Penal Code, as in force in Mysore, arising out of the matter to which such certificate relates, nor shall any such answer be admissible in evidence against him in any suit or other proceedings.

(3) Nothing in sub-section (1) shall be deemed to relieve a person receiving a certificate of indemnity from any disqualification in connection with an election imposed by any law or any rule having the force of law.

Appearance by pleader.

9. Any appearance, application or act before the Commissioner may be made or done by the party in person or by a pleader duly appointed to act on his behalf:

Provided that any such appearance shall, if the Commissioner so directs, be made by the party in person.

Expenses of witnesses.

10. The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Commissioner to such person, and shall, unless the Commissioner otherwise directs, be deemed to be part of the costs.

Costs and pleader's fees, etc.

11. (1) Costs shall be in the discretion of the Commissioner, and the Commissioner shall have full power to determine by and to whom and to what extent such costs are to be paid and to include in his report all necessary recommendations for the purposes aforesaid. The Commissioner may allow interest on costs at a rate not exceeding six per cent per annum, and such interest shall be added to the costs.

(2) The fees payable by a party in respect of fees of his adversary's pleader shall be such fees as the Commissioner may allow.

Execution of orders as to costs.

12. Any order made by the Government on the report of the Commissioner regarding the costs of the inquiry may be produced before the principal civil court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, and such court shall execute such order or cause it to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.

Disqualification of persons found guilty of election offences.

13. Any person who has been convicted of an offence under section 171-E or 171-F of the Indian Penal Code, as in force in Mysore, or has been disqualified from exercising any electoral right, for a period of not less than four years on account of malpractices in connection with an election shall be disqualified for four years from the date of such conviction or disqualification from—

(*a*) being appointed to, or acting in, any judicial office ;

(*b*) being elected to any office of any local authority when the appointment to such office is by election, or holding or exercising any such office to which no salary is attached ;

(*c*) being elected or sitting or voting as a member of any local authority ; or

(*d*) being appointed or acting as a trustee of a public trust :

Provided that the Government may exempt any such person from any such disqualification.

Maintenance of secrecy of voting.

14. (1) Every officer, clerk, agent or other person who performs any duties in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who wilfully acts in contravention of the provisions of this section shall be punished with imprisonment of either description for a term not exceeding three months or with fine or with both.

Special provision as to elections under the Government of Mysore Act, 1940.

15. This part of the Act shall have effect subject to any relevant provision of any Rules, or orders made under the Government of Mysore Act, 1940.

No. 3082 *L. C., Bangalore, dated 9th December* 1940.

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Mysore Rubber Control Bill is published for general information, with the statement of objects and reasons.

By Order,

H. V. NARAYANA RAO,

Secretary,

Mysore Legislative Council.